

AMENDED IN ASSEMBLY MAY 22, 1998

AMENDED IN ASSEMBLY MAY 14, 1998

AMENDED IN ASSEMBLY APRIL 23, 1998

AMENDED IN ASSEMBLY APRIL 2, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2181

Introduced by Assembly Members Firestone and Woods

February 19, 1998

An act to amend Sections 42825, 42835, ~~42850, 42870, 42871, 42873, and 42885~~ and 42850 of, and to add Sections ~~42845.5 and Section 42850.1~~ to, ~~and to add and repeal Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of,~~ the Public Resources Code, relating to waste tires.

LEGISLATIVE COUNSEL'S DIGEST

AB 2181, as amended, Firestone. Solid waste: tires: ~~recycling.~~

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Existing law imposes civil and criminal penalties for violation of specified provisions pertaining to waste tires.

This bill would impose additional criminal penalties for violations of those provisions, thereby imposing a state-mandated local program by creating new crimes. The

bill would also modify the amount of a civil penalty that may be imposed for certain violations.

~~(2) The existing California Tire Recycling Act, which is a part of the waste management act, requires the board to initiate a tire recycling program that promotes and develops alternatives to the landfill disposal of used whole tires.~~

~~Existing law until June 30, 1999, requires a fee of \$0.25 per tire to be paid by every person who purchases a new tire, as defined, from a retail seller of new tires.~~

~~This bill would increase that fee to \$0.50 per tire on May 1, 1999, and extend the requirement for payment of the fee until June 30, 2004. The bill would decrease the percentage of the fee that may be retained as reimbursement for costs from 10% to 5% of the fee.~~

~~The bill would require the board, by January 1, 2000, to submit to the Legislature a detailed status report on its progress between March 30, 1990, and March 30, 1994, in meeting the intent of the Legislature to reduce the landfill disposal and stockpiling of used whole tires by 25% , and to submit to the Legislature a phased strategic plan and cost estimate to eliminate existing stockpiles of whole waste tires; and to replace the need for landfill deposition of shredded waste tires with sustainable productive use of waste tires no later than January 1, 2005.~~

~~The bill would require the board by January 1, 2000, to submit to the Legislature a report, as prescribed, that addresses the issue of waste tires imported from other states for use or disposal in California.~~

~~The bill would, until June 30, 2004, require fees deposited in the California Tire Recycling Management Fund to be available, upon appropriation by the Legislature, for expenditure by the board to promote the productive end use, as described, of waste tires. The bill would make certified productive end users eligible for reimbursement on a first-come-first-serve basis by date of invoice receipt, subject to the appropriation of funds.~~

~~The bill would require the board by May 1, 1999, to establish a certification process to identify qualified productive end users eligible for reimbursement from the fund for tire recycling costs. The bill would require a certified productive~~

~~end user to be reimbursed by the board at the rate of \$0.20 per passenger tire equivalent, as defined.~~

~~The bill would require the board, by May 1, 1999, to adopt regulations authorizing a certified productive end user to obtain reimbursement of tire recycling costs.~~

~~The bill would authorize a productive end user to apply for reimbursement on or after May 1, 1999, subject to payment following adoption of regulations by the board.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42825 of the Public Resources
2 Code is amended to read:

3 42825. (a) Any person who accepts waste tires at a
4 major waste tire facility that has not been issued a permit
5 or who knowingly directs or transports waste tires to a
6 major waste tire facility that has not been issued a permit
7 shall, upon conviction, be punished by a fine of not less
8 than one thousand dollars (\$1,000) or more than ten
9 thousand dollars (\$10,000) for each day of violation, by
10 imprisonment in the county jail for not more than one
11 year, or by both that fine and imprisonment.

12 (b) For purposes of subdivision (a), "each day of
13 violation" means each day on which a violation continues.
14 In any case where a person has accepted waste tires at a
15 major waste tire facility, or knowingly directed or
16 transported waste tires to a major waste tire facility, that
17 has not been issued a permit, in violation of subdivision
18 (a), each day that the waste tires remain at the facility
19 and the person has knowledge thereof is a separate
20 additional violation, unless the person has filed a report
21 with the board disclosing the violation and is in

1 compliance with any order regarding the waste tires
2 issued by the board, a hearing officer, or a court of
3 competent jurisdiction.

4 SEC. 2. Section 42835 of the Public Resources Code is
5 amended to read:

6 42835. (a) Any person who accepts waste tires at a
7 minor waste tire facility that has not been issued a permit
8 or who knowingly directs or transports waste tires to a
9 minor waste tire facility that has not been issued a permit
10 shall, upon conviction, be punished by a fine of not less
11 than five hundred dollars (\$500) nor more than five
12 thousand dollars (\$5,000) for each day of violation, by
13 imprisonment in the county jail for not more than one
14 year, or by both that fine and imprisonment.

15 (b) For purposes of subdivision (a), “each day of
16 violation” means each day on which a violation continues.
17 In any case where a person has accepted waste tires at a
18 minor waste tire facility, or knowingly directed or
19 transported waste tires to a minor waste tire facility, that
20 has not been issued a permit, in violation of subdivision
21 (a), each day that the waste tires remain at the facility
22 and the person has knowledge thereof is a separate
23 additional violation, unless the person has filed a report
24 with the board disclosing the violation and is in
25 compliance with any order regarding the waste tires
26 issued by the board, a hearing officer, or a court of
27 competent jurisdiction.

28 ~~SEC. 3. Section 42845.5 is added to the Public~~
29 ~~Resources Code, to read:~~

30 ~~42845.5. Any person who has had a waste tire facility~~
31 ~~permit revoked, permanently or temporarily, or who has~~
32 ~~been prohibited by the board from accepting tires at any~~
33 ~~waste tire facility owned or operated by that person, may~~
34 ~~not accept tires at any other facility owned or operated~~
35 ~~by that person or business until that permit has been~~
36 ~~reinstated or the facility has been authorized or~~
37 ~~reauthorized by the board to accept tires.~~

38 ~~SEC. 4.—~~

39 SEC. 3. Section 42850 of the Public Resources Code is
40 amended to read:

1 42850. (a) Any person who negligently violates any
2 provision of this chapter, or any permit, rule, regulation,
3 standard, or requirement issued or adopted pursuant to
4 this chapter, is liable for a civil penalty of not less than five
5 hundred dollars (\$500) or more than five thousand dollars
6 (\$5,000), for each violation of a separate provision or, for
7 continuing violations, for each day that the violation
8 continues.

9 (b) Liability under this section may be imposed in a
10 civil action or liability may be imposed administratively
11 pursuant to this article.

12 ~~SEC. 5.—~~

13 *SEC. 4.* Section 42850.1 is added to the Public
14 Resources Code, to read:

15 42850.1. Any person who intentionally violates any
16 provision of this chapter, or any permit, rule, regulation,
17 standard, or requirement issued or adopted pursuant to
18 this chapter, shall, upon conviction, be punished by a fine
19 not to exceed ten thousand dollars (\$10,000) for each day
20 of violation, by imprisonment in the county jail for not
21 more than one year, or by both that fine and
22 imprisonment.

23 ~~SEC. 6. Section 42870 of the Public Resources Code is~~
24 ~~amended to read:~~

25 ~~42870. It is the intent of the Legislature to accomplish~~
26 ~~the following:~~

27 ~~(a) Reduce the landfill disposal and stockpiling of used~~
28 ~~whole tires by 25 percent within four years of full~~
29 ~~implementation of a statewide tire recycling program~~
30 ~~and to recycle and reclaim used tires and used tire~~
31 ~~components to the greatest extent possible in order to~~
32 ~~recover valuable natural resources.~~

33 ~~(b) Eliminate illegal dumping and unnecessary~~
34 ~~stockpiling of used tires.~~

35 ~~(c) Eliminate existing stockpiles of whole waste tires~~
36 ~~by instigating prompt and cost-effective cleanup actions,~~
37 ~~and to stimulate productive end uses of waste tires from~~
38 ~~existing stockpiles and from the annual flow of new waste~~
39 ~~tires generated in this state.~~

1 ~~SEC. 7. Section 42871 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~42871. (a) On or before July 1, 1991, the board shall~~
4 ~~initiate a tire recycling program which promotes and~~
5 ~~develops alternatives to the landfill disposal of used whole~~
6 ~~tires.~~

7 ~~(b) Notwithstanding Section 7550.5 of the~~
8 ~~Government Code, on or before January 1, 2000, the~~
9 ~~board shall submit to the Legislature a detailed status~~
10 ~~report on its progress between March 30, 1990, and March~~
11 ~~30, 1994, in meeting the intent of subdivision (a) of~~
12 ~~Section 42870 to reduce the landfill disposal and~~
13 ~~stockpiling of used whole tires by 25 percent. The board~~
14 ~~shall also submit, on or before January 1, 2000, a phased~~
15 ~~strategic plan and cost estimate to eliminate existing~~
16 ~~stockpiles of whole waste tires and to replace the need for~~
17 ~~landfill deposition of shredded waste tires with~~
18 ~~sustainable productive use of waste tires no later than~~
19 ~~January 1, 2005.~~

20 ~~(c) (1) Notwithstanding Section 7550.5 of the~~
21 ~~Government Code, on or before January 1, 2000, the~~
22 ~~board shall submit to the Legislature a report that~~
23 ~~addresses the issue of waste tires imported from other~~
24 ~~states for use or disposal in this state.~~

25 ~~(2) The board, in consultation with representatives of~~
26 ~~the waste tire industry, users of waste tires, and other~~
27 ~~parties, as appropriate, shall estimate the annual volume~~
28 ~~of waste tires imported into this state since 1994, the~~
29 ~~various uses of imported waste tires, and the impact of~~
30 ~~imported waste tires on the ability of the state to~~
31 ~~effectively reduce its existing waste tire stockpiles and~~
32 ~~manage its annual generation of new waste tires, and shall~~
33 ~~include this information in the report.~~

34 ~~(3) The report shall include options and~~
35 ~~recommendations, as appropriate, to remedy the adverse~~
36 ~~impacts, if any, of imported waste tires on the~~
37 ~~achievement of the waste tire management goals of the~~
38 ~~state.~~

39 ~~(4) The board may expend the sum of not more than~~
40 ~~one hundred thousand dollars (\$100,000) from the fund,~~

1 upon appropriation by the Legislature, for the purposes
2 of this subdivision.

3 SEC. 8. Section 42873 of the Public Resources Code is
4 amended to read:

5 42873. Activities designed to reduce or promote the
6 reduction of landfill disposal of used whole tires and
7 stockpiles of waste tires may include the following:

8 (a) Polymer treatment.

9 (b) Rubber reclaiming and crumb rubber production.

10 (c) Retreading.

11 (d) Shredding for productive end use.

12 (e) The manufacture of products made from used
13 tires, including, but not limited to, all of the following:

14 (1) Artificial reefs.

15 (2) Rubber asphalt.

16 (3) Playground equipment.

17 (4) Crash barriers.

18 (5) Erosion control materials.

19 (6) Nonslip floor and track surfacing.

20 (7) Oil spill recovery equipment.

21 (8) Roofing adhesives.

22 (f) Utilization for energy recovery or electricity
23 generation.

24 (g) Other environmentally safe applications or
25 treatments determined to be appropriate by the board.

26 SEC. 9. Section 42885 of the Public Resources Code is
27 amended to read:

28 42885. (a) On and after May 1, 1999, every person
29 who purchases a new tire, as defined in subdivision (c),
30 from a retail seller of new tires shall pay a fee of fifty cents
31 (\$0.50) per tire to the seller. This fee is based on the
32 original fee of twenty-five cents (\$0.25) per tire, an
33 increase in the original fee of ten cents (\$0.10) per tire to
34 encourage additional productive use of waste tires, and
35 an adjustment of the original fee to include the calendar
36 year average change, beginning with calendar year 1989,
37 of the Consumer Price Index for California as determined
38 and forecast by the California Department of Finance.

39 (b) The retail seller shall collect the fee at the time of
40 sale, may retain 5 percent of the fee as reimbursement for

1 any costs associated with the collection of the fee, and
2 shall remit the remainder to the state on a quarterly
3 schedule for deposit in the California Tire Recycling
4 Management Fund, which is hereby created in the State
5 Treasury.

6 (e) The board, or its agent authorized pursuant to
7 Section 42882, shall be reimbursed for its costs of
8 collection, auditing, and refunds associated with the
9 California Tire Recycling Management Fund, but not to
10 exceed 3 percent of the total annual revenue deposited
11 in the fund.

12 (d) For purposes of this section, “new tire” means a
13 pneumatic or solid tire intended for use with on-road or
14 off-road motor vehicles, motorized equipment,
15 construction equipment, or farm equipment that is sold
16 separately from the motor vehicle, motorized
17 equipment, construction equipment, or farm equipment.
18 “New tire” does not include retreaded or recycled tires
19 or tires that are mounted on wheels and sold as part of a
20 vehicle or equipment.

21 (e) This section shall become inoperative on June 30,
22 2004, and, as of January 1, 2005, is repealed, unless a later
23 enacted statute, which becomes effective on or before
24 January 1, 2005, deletes or extends the dates on which it
25 becomes inoperative and is repealed.

26 SEC. 10. Chapter 20 (commencing with Section
27 42970) is added to Part 3 of Division 30 of the Public
28 Resources Code, to read:

29
30 CHAPTER 20. PRODUCTIVE END USE OF WASTE TIRES

31
32 42970. (a) The Legislature finds and declares that
33 the reuse, retreading, and recycling of whole or shredded
34 tires is an effective and desirable method for addressing
35 California’s tire disposal problems and that the board and
36 local agencies shall continue to promote source reduction
37 and recycling activities to reduce the disposal of tires in
38 accordance with the waste management hierarchy of
39 Section 40051.

~~(b) It is the intent of the Legislature to eradicate existing tire stockpiles and to develop markets for waste tires generated annually in this state. It is the further intent of the Legislature to encourage the productive end use of waste tires and to discourage landfill deposition and other nonproductive end uses of waste tires.~~

~~42971. For the purposes of this chapter, the following terms have the following meaning:~~

~~(a) "Fund" means the California Tire Recycling Management Fund created by subdivision (a) of Section 42885.~~

~~(b) "Passenger tire equivalent" means 20 pounds of waste tire material.~~

~~(c) "Productive end use" includes, but is not limited to, recycling of waste tires into products for residential, commercial, civil engineering, industrial, or related uses and energy recovery at facilities meeting air quality standards prescribed by the local regulatory agency. "Productive end use" does not include landfill deposition or other subsurface deposition of shredded tires.~~

~~(d) "Waste tire" means a waste tire, as defined in Section 42807, that has been generated or stockpiled in this state.~~

~~42972. (a) Fees deposited in the fund, shall be available, upon appropriation by the Legislature, for expenditure by the board pursuant to this chapter to promote the productive end uses of waste tires. In determining the allocation of funds to promote the productive end uses of waste tires, the board shall consider, among other criteria, the applicant's demonstration of need for funding to initiate, expand, or sustain productive end use activities.~~

~~(b) Productive end users certified pursuant to Section 42973 shall be eligible for reimbursement on a first-come-first-serve basis by date of invoice receipt, subject to the appropriation of funds for those uses. The state shall not be liable for any reimbursement in excess of the funds appropriated for that purpose.~~

~~42973. (a) On or before May 1, 1999, the board shall establish a certification process to identify qualified~~

~~productive end users eligible for reimbursement from the fund for tire recycling costs. Applicants for certification may include, but are not limited to, all of the following:~~

~~(1) Persons using waste tires in the state for energy recovery and other byproducts. On January 1, 1999, cement kilns using waste tires for energy recovery are eligible for reimbursement upon demonstrating that the kiln holds a valid permit allowing combustion of waste tires from a local air pollution control district or upon demonstrating that the kiln holds a valid permit allowing combustion of waste tires obtained subsequent to January 1, 1999, based upon a permit application to combust waste tires in process at a local air pollution control district as of January 1, 1998.~~

~~(2) Persons processing whole waste tires into bales, shreds, chips, crumb rubber, or buffings.~~

~~(3) Persons recycling whole waste tires into products for residential, commercial, industrial, or related uses in which there is a demonstrated market for the product.~~

~~(b) For the purposes of this section, “qualified productive end user” does not include an operator of a landfill or monofill, or any other person engaged in those disposal practices.~~

~~(c) The board shall certify qualified productive end users who meet the eligibility requirements established by the board pursuant to subdivision (a).~~

~~(d) The Department of Transportation is not eligible for reimbursement under this chapter.~~

~~42975. (a) A certified productive end user shall be eligible for reimbursement by the board at the rate of twenty cents (\$0.20) per passenger tire equivalent. Full reimbursement shall be based on total use of a passenger tire equivalent for productive end use.~~

~~(b) To qualify for reimbursement, a productive end user shall certify, by manifest or other means, that the waste tires recycled or transformed were generated in this state or originated from existing waste tire stockpiles in this state as identified by the board as of January 1, 1998.~~

~~(c) In addition to the requirement of subdivision (b), a certified productive end user who converts whole waste tires by pyrolysis and a certified productive end user who processes whole waste tires into bales, shreds, chips, crumb rubber, or buffings shall certify both of the following in order to qualify for reimbursement:~~

~~(1) (A) The waste tire products have been sold to product manufacturers or other end users for productive reuse within one year of production.~~

~~(B) For purposes of this paragraph, the sale of waste tire products for landfill deposition or other subsurface deposition is not a productive reuse.~~

~~(2) Invoices submitted may only include waste tire products sold to manufacturers or other end users as specified in subparagraph (A) of paragraph (1).~~

~~(d) A certified productive end user is not eligible to receive reimbursement for a passenger tire equivalent that has been the subject of reimbursement under this chapter. The board shall adopt regulations and processes to ensure compliance with this requirement. It is the intent of the Legislature to preclude duplicate reimbursement for the multiple use of the same passenger tire equivalent.~~

~~42976. (a) On or before May 1, 1999, the board shall adopt regulations authorizing a certified productive end user to obtain reimbursement for tire recycling costs in accordance with this chapter.~~

~~(b) A productive end user may apply for reimbursement on or after May 1, 1999, subject to payment following adoption of regulations by the board pursuant to subdivision (a). Reimbursement payments shall be made on a monthly basis upon submittal of prior month invoices in a form acceptable to the board. The board shall review the distribution of reimbursements under the program on an annual basis. If the board finds that certified end users that engage in recycling activities are unable to receive reimbursement under this chapter, the board shall amend the allocation structure and designate money from the fund in the next budget year~~

1 ~~in order to ensure an equitable allocation of funds for~~
2 ~~recycling activities.~~

3 ~~42977. This chapter shall become inoperative on June~~
4 ~~30, 2004, and, as of January 1, 2005, is repealed, unless a~~
5 ~~later enacted statute, which becomes effective on or~~
6 ~~before January 1, 2005, deletes or extends the date on~~
7 ~~which it becomes inoperative and is repealed.~~

8 ~~SEC. 11.—~~

9 *SEC. 5.* No reimbursement is required by this act
10 pursuant to Section 6 of Article XIII B of the California
11 Constitution because the only costs that may be incurred
12 by a local agency or school district will be incurred
13 because this act creates a new crime or infraction,
14 eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition
17 of a crime within the meaning of Section 6 of Article
18 XIII B of the California Constitution.

19 Notwithstanding Section 17580 of the Government
20 Code, unless otherwise specified, the provisions of this act
21 shall become operative on the same date that the act
22 takes effect pursuant to the California Constitution.

